

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

LOCAL 155, UNITED AUTOMOBILE,  
AEROSPACE AND AGRICULTURAL  
IMPLEMENT WORKERS OF AMERICA (UAW)  
AFL-CIO (SAS AUTOMOTIVE USA, INC.)

Case 07-CB-210547

and

AMEER A. HANNA

*Robert A. Drzyzga, Esq.*, for the General Counsel.

*James A. Britton, Esq. (UAW International Union)*  
of Detroit, Michigan, for the Respondent.

DECISION

CHARLES J. MUHL, Administrative Law Judge. The General Counsel's complaint in this case alleges that Local 155 of the United Auto Workers union violated Section 8(b)(1)(A) of the National Labor Relations Act in its handling of a grievance filed in August 2017 by Charging Party Ameer Hanna. The complaint specifically claims that the Union willfully misrepresented and deliberately misinformed Hanna regarding the status of his grievance during a conversation in November 2017. It also alleges that the Union processed Hanna's grievance in a perfunctory manner. On December 10 and 11, 2019, I conducted a trial on the complaint in Detroit, Michigan. On January 31, 2020, the General Counsel and the Union filed posthearing briefs, which I have considered. I conclude that the evidence is insufficient to establish the alleged violations.<sup>1</sup>

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<sup>1</sup> The complaint was premised upon an unfair labor practice charge filed by Hanna against the Union on November 24, 2017. The Union admitted in its answer to the complaint that SAS Automotive USA, Inc. (SAS Automotive) is an employer within the meaning of Sec. 2(2), (6), and (7) of the Act, as well as that the Union is a labor organization within the meaning of Sec. 2(5) of the Act.

## FINDINGS OF FACT

On July 10, 2006, Ameer Hanna began working for Faurecia Interior Systems (“Faurecia”) at its facility in Sterling Heights, Michigan,<sup>2</sup> where Faurecia manufactured automotive cockpits.<sup>3</sup> At the plant, Local 155, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO (the Respondent or Union) represented a bargaining unit of full-time production and maintenance, shipping, and quality control employees, as well as GAP (team) leaders. Hanna was a part of that unit. Since April 2014, Duana King has been the president of the local.<sup>4</sup> In 2016, her duties included acting as the servicing representative at the Faurecia plant. She is responsible for grievance processing at higher steps, including meeting with human resources representatives. King also participates in mediations and arbitrations. Rashon Byrd is the international servicing representative for UAW Region 1, which includes Local 155. In 2016, Byrd assisted King with the Faurecia facility. Sharon Langford was employed as an assembly line operator in the plant and served as the union steward.

Unit employees were covered by a collective-bargaining agreement between Faurecia and the Union, which ran through July 1, 2017.<sup>5</sup> That contract contained a grievance and arbitration procedure with three steps prior to arbitration. The first step was a meeting between an employee, a supervisor, and potentially a union representative. If the issue was not resolved, the grievance was to be reduced to writing. The second step was a meeting between the union representative and department manager, following receipt of the company’s answer to the grievance. The third step was a meeting between the plant or human

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<sup>2</sup> The plant also is referred to in the transcript as the Merrill Road facility.

<sup>3</sup> In order to aid review, I have included citations to the record in my findings of fact. The citations are not necessarily exclusive or exhaustive. I largely have placed the citations in footnotes at the end of each paragraph. In assessing witnesses’ credibility, I have considered their demeanors, the context of the testimony, the quality of their recollections, testimonial consistency, the presence or absence of corroboration, the weight of the respective evidence, established or admitted facts, inherent probabilities, and reasonable inferences that may be drawn from the record as a whole. See *Double D Construction Group*, 339 NLRB 303, 305 (2003); *Daikichi Sushi*, 335 NLRB 622, 623 (2001) (citing *Shen Automotive Dealership Group*, 321 NLRB 586, 589 (1996)), *enfd. sub nom.*, 56 Fed. Appx. 516 (D.C. Cir. 2003). Where needed, I discuss specific credibility resolutions in my findings of fact.

<sup>4</sup> King’s last name was Davis during a portion of the material times in this case. King was the Respondent’s representative at the hearing and was present for all witness testimony. The transcript contains numerous instances of King commenting during witness testimony, including repeatedly when Hanna was on the stand. These comments were inaudible from the bench, but loud enough to be picked up by the court reporter’s microphone and now are a part of the official record. It goes without saying that such conduct is unacceptable in any courtroom and, had the comments been audible to me, I would have directed King to cease making them.

<sup>5</sup> GC Exh. 2. SAS Automotive also was a signatory to the collective-bargaining agreement, but the record evidence does not establish why.

resources manager and the president of the local. The collective-bargaining agreement also defined seniority as continuous service at Faurecia.

5        Around May 2016, Hanna, who then was working as an operator, began training to become a team leader. On August 15, 2016, Faurecia moved Hanna to that position, increasing his pay by \$1 per hour to \$17.25.<sup>6</sup>

#### I. FAURECIA SHUTS DOWN OPERATIONS AND SAS AUTOMOTIVE TAKES OVER THE STERLING HEIGHTS FACILITY

10        On October 5, 2016, Faurecia sent a notification to the Union that it would cease operations at the Sterling Heights facility in December 2016, resulting in a mass layoff of all employees. Faurecia's last day of operation was December 2, 2016. Hanna was laid off as of the following Monday. At that time, Hanna still worked as a team leader. When Hanna departed, he took his Faurecia team leader book with him. The book contained a document with pictures of Hanna and the other employees who worked on his part of the assembly line. The document showed Hanna's job title as team leader. The book also contained documents showing that Hanna had been trained as a team leader in May and July 2016. Also on 15 December 2, 2016, Pam Scovill, a human resources manager for Faurecia who was handling the plant shutdown, sent the Union a list of employees at the plant as of its closing. The list contained employees' names and contact information, as well as their seniority dates. However, the document did not include their job classifications.<sup>7</sup>

20        Just prior to Faurecia's shutdown, Keith Rochon, a plant manager for SAS Automotive, sent a letter to King confirming that SAS Automotive would take over the Sterling Heights facility and begin production in January 2018. Rochon told King the Company wanted to negotiate a contract with the Union which would be exclusive to SAS Automotive. On January 25 20, 2017, SAS Automotive and the Union entered into a bridge agreement.<sup>8</sup> The parties agreed that the existing collective-bargaining agreement would remain in full force and effect, to the extent it was not modified by the bridge agreement, until they reached a new contract. Regarding employee recall, the bridge agreement stated:

30                The company may recall up to ten (10) Employees ("Recalled Employees") for the purpose of cleaning the Facility and completing a "Pilot Build" for the new DT Program. The Company may determine which classification of Employees to recall. Individual Employees will then be recalled based upon their 35 seniority, as defined within the CBA, within each classification.

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<sup>6</sup> GC Exhs. 4-5, 20-21; Tr. 21-24, 95-96. Hanna's promotion was documented by an associate action form, which only was available in hard copy in Hanna's personnel file. (GC Exh. 20; Tr. 36-38.)

<sup>7</sup> GC Exhs. 3-5, 19, R. Exh. 1; Tr. 96-106.

<sup>8</sup> GC Exh. 2(a); R. Exh. 2. All dates hereinafter are in 2017 unless otherwise indicated.

On April 17, SAS Automotive began recalling employees to set up the Sterling Heights facility for eventual production. The recalled employees included Bahij Wallace as a team leader. On May 1, SAS Automotive recalled Halida Bosirevic, Jasminka Bosirevic, and Phillip Braxton as team leaders. Hanna had more seniority, as defined by the Union's contract with Faurecia, than each of the four recalled team leaders.<sup>9</sup>

## II. HANNA FILES AND THE UNION PROCESSES A GRIEVANCE ALLEGING A FAILURE TO RECALL

In early May, Hanna learned of the team leader recalls. Thereafter, Hanna called the local union on May 10, July 20, July 24, and August 14. He sometimes, but not always, left messages. He also visited the local hall three or four times, including on August 7. On August 16 and 17, Hanna called Byrd at the UAW Region 1 office and left messages. On August 18, Byrd returned Hanna's call and spoke with him for 38 minutes. Hanna explained that he was trying to figure out why he was not recalled in May. He told Byrd he had contacted the local union, but did not get any information or communication in response.<sup>10</sup>

On August 23, Hanna submitted a handwritten grievance to Langford, the union steward. Hanna alleged the Company recalled an employee as a team leader who had less seniority than him. He asked that the Company call him back to work as a team leader and pay him from the date he should have been recalled. On that same date, Hanna called Byrd and King multiple times, but did not receive a return call.<sup>11</sup>

On August 24, the Union and SAS Automotive held a bargaining session as part of their negotiations for a complete collective-bargaining agreement. King and Langford attended for the Union, while the Company was represented by Rochon, the plant manager, and Molly Wise, then the plant's human resources manager. Langford gave King Hanna's grievance and King raised Hanna's failure to be recalled issue at the table. Wise responded that Hanna was an operator, not a team leader, and she had information from Faurecia showing it.<sup>12</sup>

That same day, Byrd contacted Wise via email and asked her to reach out to Hanna. Shortly thereafter, Wise responded that she spoke to Hanna and SAS Automotive would not be bringing him back as a team leader. She said that the Company would bring him back as an operator in seniority order once they began production. King followed up with Wise via email the same day. King reiterated that Hanna was a team leader before he was laid off and SAS Automotive brought back a less senior employee in violation of the contract. King told Wise that it was SAS Automotive's responsibility to obtain a seniority list and employees' job

<sup>9</sup> R. Exh. 24; Tr. 171.

<sup>10</sup> Tr. 109–132, 245, 248; GC Exhs. 9 (p. 6), 10 (pp. 12, 14), 11 (pp. 12, 15–16, 19), 28.

<sup>11</sup> GC Exhs. 11 (p. 22–23), 13. Hanna mistakenly listed Faurecia as the company in his grievance, even though SAS Automotive was operating the facility at the time.

<sup>12</sup> Tr. 174–177. The job classification for team leader at SAS Automotive is ACT leader. Scovill previously sent Wise a list of certain Faurecia employees which showed Hanna as an operator. (Tr. 47–51; GC Exh. 22.)

classifications from Faurecia. King said the Union filed a grievance and Wise had to meet on the grievance according to the existing contractual procedure. King told Wise the Company had to prove that Hanna was not a team leader in response to the Union's grievance. Finally, King made an information request for all current employees who were working, their  
5 positions, and their seniority dates. She also requested the names, seniority dates, and job classifications of all employees eligible to be recalled. King said she needed a date to meet with the Company on Hanna's grievance after she received the information. Wise responded to King the same day. She stated that Hanna never was an "official" team leader, but had filled in for a short time while a team leader was on vacation. Wise told King she had attached  
10 the information Faurecia provided to SAS Automotive. The attachment showed employees' names, seniority date, and position. Hanna's position was listed as "operator."<sup>13</sup>

King then contacted Hanna. She told him SAS Automotive was claiming he was an operator. She asked if Hanna had any information to prove he was a team leader, such as a job  
15 posting or application. Hanna responded that he had paystubs and other documents proving it. He also said that most people who worked in the facility knew he was a team leader, but did not identify any specific employees by name.<sup>14</sup>

On September 5, Langford officially submitted Hanna's grievance to Wise. Despite  
20 Wise previously saying that Hanna would be recalled when production began in January 2018 as an operator, SAS Automotive instead recalled Hanna on September 11 as a team leader.<sup>15</sup>

After Hanna's return to work, Langford and Hanna met with Wise and Nick Rock, the SAS Automotive's operations manager, about Hanna not being recalled earlier. In their  
25 presence, Wise searched computer records to determine if Hanna had worked as a team leader. She ultimately told Langford that neither the documents she received from Faurecia nor any of her own records showed that he had. During the same timeframe, Langford spoke to multiple employees who worked with Hanna on the cockpit side of Faurecia to try and establish if he was a team leader. The employees told Langford that Hanna was a substitute team leader who  
30 would fill in at the position when permanent team leaders were absent. King also asked Bahij and Langford if Hanna was ever a team leader at Faurecia. They both told her no.<sup>16</sup>

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<sup>13</sup> R. Exhs. 5, 6; Tr. 177-178.

<sup>14</sup> Tr. 113-114, 180.

<sup>15</sup> Tr. 46-47, 129-130, 132-133.

<sup>16</sup> Tr. 182, 243-244, 251-252. I credit Langford's testimony concerning the meeting and her subsequent conversations with employees about Hanna's job classification at Faurecia. Langford's demeanor when providing this testimony was genuine and assured, reflecting reliability. The General Counsel argues that Langford's testimony should not be credited, and an adverse inference drawn, because she admitted she took witness statements from the employees, but the Respondent did not turn those statements over in response to the General Counsel's document subpoena. I reject this contention, because Langford credibly explained why she could not recall where she had stored those statements. I also note that the hearing in this case took place more than two years after the events in question.

At some point after October 18, Hanna provided King with his Faurecia pay stubs from August 22 to December 4, 2016, a time period after he had been moved to the team leader position. The stubs showed that Hanna's pay rate was \$17.25 per hour, the rate he received in that job classification. However, the stubs did not show that Hanna was in the team leader position. Despite having possession of his Faurecia team leader book, Hanna did not provide King with any other information besides the pay stubs.<sup>17</sup>

During an early November contract negotiation session, King spoke during a private sidebar with Mark McDowell, the new plant manager. McDowell told King he did not want to start up a new company with old issues and asked what he could do to make Hanna's situation go away. McDowell ended up proposing that Hanna receive 2 weeks of backpay. King responded that she would consult with Hanna about the settlement offer.<sup>18</sup>

On November 17, King spoke to Hanna. She told him that all she had were his paystubs, which did not prove he got the team leader position. Hanna responded that the paystubs were enough. King explained that, if he worked in a higher classification temporarily, his paystubs would show he was paid at that team leader rate. However, she said, the paystubs did not show that he actually got the position. King asked Hanna if he had any other information. Hanna again replied that the paystubs were enough. King told Hanna that the plant manager offered him 2 weeks of backpay to settle his grievance. Hanna refused the offer and told King he would see if he could find some more information. He also told King that he was going down to the Board and would file a charge against the Company and see what he could get. King told Hanna that the Union owned the grievance and, without any additional evidence beyond the pay stubs, she did not think she could win the case. She said, by right, she could settle his grievance now. Hanna pleaded with King not to close his grievance. Ultimately, Hanna told her "let me see what I'm going to do."<sup>19</sup>

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<sup>17</sup> R. Exh. 4; Tr. 138–139, 181–182.

<sup>18</sup> Tr. 85, 90–91, 180–181.

<sup>19</sup> Tr. 133–136, 181–182. Both Hanna and King testified concerning their November 17 conversation. For the most part, they testified consistently. Where their testimony conflicts, I credit King. Her account was more detailed and her demeanor was indicative of trustworthiness. In contrast, Hanna's testimony appeared inflated. In particular, I do not credit Hanna's testimony that King told him she would accept the settlement, even if he rejected it and she refused any further proof from him. I find King's testimony that she told Hanna she had the authority to settle the grievance and that Hanna would lose the case without more information the more plausible account. Moreover, King's testimony that Hanna repeatedly stated his paystubs were enough is corroborated by the fact that, after telling King he had more documents and witnesses in August, the only thing he provided her was his paystubs. His failure to provide the documents from his Faurecia team leader handbook at that time suggests he did not think they were necessary to proving his grievance. Hanna himself testified he thought the paystubs were sufficient proof. (Tr. 145.) However, I do not credit King's testimony that Hanna told her to put his grievance on hold. Hanna conceded that he told King "let me see what I'm going to do." (Tr. 154.) I find that King interpreted Hanna's statement as a request that his grievance remain open, but be put on hold.

On November 24, Hanna filed the original unfair labor practice charge against the Union in this case. He did not file a charge against SAS Automotive.

In February 2019, Hanna supplied the Union with documents from his Faurecia team leader book for the first time. At no point did the Union ever withdraw Hanna's grievance.<sup>20</sup>

## ANALYSIS

### I. DID THE UNION PROCESS HANNA'S GRIEVANCE IN A PERFUNCTORY MANNER?

The General Counsel's complaint alleges that, in November 2017, the Union told Hanna that SAS Automotive had offered, and the Union would accept, a grievance settlement of 2-weeks backpay with little or no investigation. By this conduct, the complaint alleges the Union violated Section 8(b)(1)(A) by handling Hanna's grievance in a perfunctory manner.

A union owes a duty of fair representation to all of the employees it represents and breaches that duty when its action or inaction is "arbitrary, discriminatory, or in bad faith." *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). Actions are arbitrary "only if, in light of the factual and legal landscape at the time of the union's actions, the union's behavior is so far outside a 'wide range of reasonableness' as to be irrational." *Airline Pilots Assn. v. O'Neill*, 499 U.S. 65, 67 (1991). A union has a broad range of discretion in carrying out its representational duties, including grievance handling, and an individual does not have an absolute right to have a grievance filed or have it processed through arbitration. *Vaca*, supra at 191. A union does not violate the duty of fair representation where it refuses to file or process a grievance pursuant to a good-faith evaluation as to the merits of the employee's complaint. *Teamsters Local 814 (Beth Israel Medical)*, 281 NLRB 1130, 1146 (1986). Where a union undertakes to process a grievance but decides to abandon it short of arbitration, the finding of a violation turns not on the merit of the grievance but rather on whether the union's disposition of the grievance was perfunctory or motivated by ill will or other invidious considerations. *Glass Bottle Blowers, Local 106 (Owens-Illinois)*, 240 NLRB 324, 324 (1979). Mere negligence, poor judgment, or ineptitude in grievance handling is insufficient to establish a breach of the duty of fair representation. *Service Employees Intl. Union, Local 579 (Beverly Manor Convalescent Center)*, 229 NLRB 692, 695 (1977). Moreover, a union is not required to carry out an investigation of the same scope and rigor as one that the General Counsel might carry out or to follow any particular procedures in processing an employee's grievance. *BCI Coca-Cola Bottling Co. of Los Angeles*, 361 NLRB 839, 841 (2014). "[T]he issue here is not whether the [union] discharged its obligations with maximum skill and adeptness, but whether, in undertaking its efforts, it dealt fairly. The duty of fair representation does not

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<sup>20</sup> Tr. 138–139; 182–183. Hanna offered no explanation for why he did not provide the Faurecia team leader book documents to the Union before then. As previously noted, it appears he did not do so, because he believed his paystubs were sufficient proof of him being a team leader. As to why he ultimately did, the General Counsel's amended complaint in this case issued on December 11, 2018, and added the perfunctory grievance handling allegation. This prompted King to send Hanna a letter and Hanna to respond by finally providing the documents.

require that every possible option be exercised or that a grievant's case be advocated in a perfect manner." *Local 355 Teamsters (Monarch Institutional Foods)*, 229 NLRB 1319, 1321 (1977).

Applying these principles to the facts here, I conclude the Union did not process Hanna's grievance in an arbitrary or perfunctory manner. The sequence of events from August 23 to November 17 demonstrates that the Union took multiple good-faith steps to process Hanna's grievance. After Hanna submitted it to Langford on August 23, King raised his recall issue with SAS Automotive's then Plant Manager Rochon and Human Resources Manager Wise at the bargaining table the very next day. Byrd likewise reached out to Wise about Hanna's issue on August 24. When Wise insisted that Hanna was an operator with Faurecia, King forcefully rebuffed her. King told Wise it was the Company's responsibility to prove that Hanna was not a team leader. She told Wise that Wise had to follow the existing contractual grievance procedure and requested a date to meet on the grievance. King also submitted an information request to Wise seeking to determine employees' positions and seniority dates prior to their recall. When Wise provided King with a document from Faurecia showing Hanna's job classification as operator, King advised Hanna that she needed documents from him to prove he was a team leader. Only 2 weeks after the Union's efforts, SAS Automotive not only decided to recall Hanna immediately but it also placed him in the team leader position. Following his return, Langford met with SAS Automotive representatives and Hanna to try and determine if he should have been recalled back in the spring. King and Langford also spoke to other employees concerning whether Hanna worked as a team leader at Faurecia. Those conversations corroborated SAS Automotive's contention that Hanna only had filled in as a team leader on a temporary basis at Faurecia.

Finally, when McDowell advised King in November that he was offering Hanna 2 weeks of backpay to settle the grievance, King took the offer to Hanna. After Hanna rejected it, King did not accept the offer on his behalf, despite the Union having the legal authority to do so. See *BCI Coca-Cola Bottling Co. of Los Angeles*, supra; *Mahon v. NLRB*, 808 F.2d 1342, 1345 (9th Cir. 1987). In light of Hanna telling King he was going to pursue a Board charge and asking her to "let me see what I'm going to do," it was not perfunctory for the Union to decide not to take any further steps on Hanna's grievance.

In addition to the steps the Union did take, its ability to process the grievance successfully was hampered by Hanna's failure to produce additional evidence for his claim. Despite King's request to Hanna in August for additional documents to establish he had been a team leader at Faurecia, Hanna did not provide any until mid-October. When he did, the only documents he gave her were paystubs, which did not show he permanently had been moved to a team leader position in August 2016. After King again asked for more proof, Hanna did not provide any until February 2019. Hanna offered no explanation at the hearing as to why he did not turn over his Faurecia team leader book documents before then. Beyond documents, Hanna could have told King at any time the names of employees on his team with whom he worked as



a team leader, but did not do so.<sup>21</sup> Hanna's failure to cooperate in the grievance investigation also forms a basis for the Union not proceeding with his grievance. *H&M International Transportation, Inc.*, 363 NLRB No. 139, slip op. at 33 (2016) (union's processing of grievance was not perfunctory, where grievant provided very limited information and ignored union's subsequent requests for information).

Admittedly, the Union's processing of Hanna's grievance was not without flaws. First, neither Byrd nor King responded to Hanna for over 3 months from the date of his initial phone call and despite his repeated contacts thereafter. The delay in communicating with Hanna was not ideal but, at most, constituted mere negligence. Cf. *District 1-MEBA/NMU (Mormac Marine Transport)*, 312 NLRB 944, 944 (1993) (union engaged in more than mere negligence when it did absolutely nothing to process a grievance for 9 months, despite being asked to do so on numerous occasions). Second, based upon the terms of the bridge agreement, the existing grievance and arbitration procedure was in effect at the time Hanna filed his grievance. King correctly asserted this fact to Wise, at least initially, but thereafter did not demand that SAS Automotive adhere to the specific steps contained in the contract. Nonetheless, King discussed Hanna's issue directly with McDowell, thereby essentially moving Hanna's grievance to Step 3, and McDowell made an offer to settle the grievance. Finally, King never contacted Scovill directly to confirm the accuracy of the information Wise had about Hanna's position. Had the Union pushed, Scovill might have reviewed Hanna's personnel file, which contained the associate action form indicating he had been moved to team leader in August 2016. The General Counsel faults the Union for relying on "hearsay" evidence, instead of asking Scovill to review Hanna's personnel file or to provide the Union with the file. But the duty of fair representation in processing an employee's grievance does not require that each case be handled with the expertise of a trial lawyer. *Local 327 Teamsters (Kroger Co.)*, 233 NLRB 1213, 1217 (1977). That the Union chose to seek additional information from Hanna, the grievant, as opposed to directly from Scovill does not rise to the level of irrational conduct. *American Postal Workers Union, Local 551*, 337 NLRB 550, 550 (2002) (although some of the union's actions were open to question, they were insufficient to establish a violation of the Act); *Local Union 195, Plumbers (Stone & Webster)*, 240 NLRB 504, 508 (1979) (union did not breach duty of fair representation, even though it conducted a limited investigation and accepted the employer's position because it was supported by existing evidence).<sup>22</sup>

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<sup>21</sup> For this reason and based upon my credibility determination described above, I likewise find no merit to the General Counsel's argument that the Union engaged in perfunctory conduct by refusing to accept additional evidence from Hanna. King requested additional information from Hanna, but Hanna never provided it.

<sup>22</sup> The record evidence also establishes that, had the Union contacted Scovill directly and asked for information concerning Hanna's position at Faurecia, Scovill would have provided the same documents to the Union that she did to SAS Automotive. (Tr. 39.) Langford had the opportunity to review those documents with Wise and Hanna during their in-person September meeting. Scovill only would have provided Hanna's personnel file, if the Union specifically asked for it. (Tr. 41.) It would have been adept for the Union to make that request, but grievance processing is not perfunctory because a union fails to perfectly process the grievance. *Local 355 Teamsters*, supra.

In arguing that the Union's processing of Hanna's grievance was perfunctory, the General Counsel relies upon the Board's decisions finding unlawful arbitrary grievance processing in *Service Employees Intl. Union, Local 579 (Beverly Manor Convalescent Center)*, 229 NLRB 692 (1977) and *Newport News Shipbuilding and Dry Dock Co.*, 236 NLRB 1470 (1978). Neither case warrants a finding here that the Union breached its duty of fair representation to Hanna. In *SEIU Local 579*, a union steward met with a supervisor after an employee informed the steward she had been discharged, allegedly for switching shifts in contravention of an employer rule. Rather than inquire about or challenge the justification for the discharge, the steward looked at the employee's personnel file after the supervisor told her the employer had many problems with the employee in the past. The steward did not discuss anything further with the supervisor. The steward then reported to the union's business agent that, in her opinion, the employee was discharged for cause. She also falsely stated the grievant did not want to process the grievance further. The business agent accepted that conclusion without further inquiry. In contrast here, the Union did not fail to consider the specific claim Hanna made. King challenged Wise for proof of Wise's contention that Hanna was an operator. The Union representatives looked over the documents which Wise had, asked other employees about Hanna working as a team leader, and asked Hanna repeatedly for more information to corroborate his claim. The Union did not evaluate Hanna's situation solely upon what SAS Automotive was telling it. King also never made any misrepresentations regarding Hanna's grievance, to Hanna or anyone else.

In *Newport News Shipbuilding*, employee Hubert South asked a foreman on behalf of a group of employees if they could be sent home because of cold weather conditions outside where they were working. A higher-level supervisor refused their request. The employer then docked the employees' pay for the 15 minutes they were waiting for an answer to their request without working. The next day, an employer representative notified a union agent that there had been a work stoppage by a group of employees and the employer intended to fire all the employees involved. In response, the union agent agreed to allow the employer to discharge only South, whom the employer had identified as the "ringleader." The agreement came before the union agent even spoke to South about what had occurred. When South later requested that the union move his grievance to a step 2 appeal, the union failed to respond to the request and did not further appeal the grievance. In contrast here, neither King nor anyone else from the Union accepted SAS Automotive's contention that Hanna was an operator at Faurecia. King also spoke to Hanna and requested information that would support his claim. The Union did not stop processing Hanna's grievance until Hanna asked King to let him see what he could do and failed to provide King with any additional proof of being a team leader.

For all these reasons, I find that the Union did not engage in perfunctory grievance processing and did not breach its duty of fair representation to Hanna.

II. DID THE UNION WILLFULLY MISREPRESENT AND DELIBERATELY MISINFORM  
HANNA REGARDING THE STATUS AND SETTLEMENT OF HIS GRIEVANCE?

The General Counsel's complaint alleges that the Union willfully misrepresented and deliberately misinformed Hanna regarding the status and settlement of his grievance, thereby violating Section 8(b)(1)(A). This allegation is premised upon the conversation between Hanna and King on November 17.

A union's duty of fair representation includes the duty to neither willfully misinform employees about their grievances nor to willfully keep them uninformed. *Central Kentucky Branch 361, National Assn. of Letter Carriers (U.S. Postal Service)*, 367 NLRB No. 19, slip op. at 7 (2018), citing *American Postal Workers Union*, 328 NLRB 281 (1999); *Local 417 UAW (Falcon Industries)*, 245 NLRB 527, 534 (1980); and *Groves-Granite*, 229 NLRB 56, 63 (1977).

The General Counsel advances multiple theories to support the complaint allegation, none of which I find have merit. First, the General Counsel argues that King misrepresented the status of Hanna's grievance when she told him she would accept McDowell's offer of 2-weeks backpay to settle it, but then did not do so. However, the credited evidence establishes that, on November 17, King told Hanna she could not win his grievance without additional information from him beyond his paystubs and she had the right to settle the grievance without his approval. Neither comment was a misrepresentation, willful or otherwise. Even if she had told King she was accepting the offer, King subsequently did not do so, meaning she did what Hanna wanted. The General Counsel next argues that, even if King's testimony is credited, she misrepresented to Hanna that the Union was placing his grievance on hold. Again, the credited evidence does not show that King said this to Hanna. Rather, King put the grievance on hold in response to Hanna telling her he rejected the settlement offer and wanted to pursue a remedy against SAS Automotive on his own. Nonetheless, even if King had said she was placing his grievance on hold, it was not a misrepresentation, because that is exactly what the Union did thereafter. King never withdrew Hanna's grievance. Finally, the General Counsel argues in the alternative that the Union subsequently was advised by SAS Automotive that Hanna's grievance had been settled, but the Union failed to advise Hanna of the resolution. This contention is based upon the following text written by King in an August 1, 2018 position statement the Union submitted during the investigation of Hanna's unfair labor practice charge:

I was told by Ms. Mitchell [SAS Automotive's HR representative] that the company had moved Mr. Hanna to an ACT leader position and agreed on settlement pay for the time he was not coded as an ACT leader...I assumed that it was done because I was not contacted by anyone to state this case was still open.<sup>23</sup>

King's statements do not establish a failure on her part to inform Hanna that his grievance was settled. (In fact, it had not been.) Based upon what Mitchell told her, SAS Automotive settled

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<sup>23</sup> GC Exh. 26.

the grievance directly with Hanna, without the Union's involvement. Thus, Hanna would have been well aware of the resolution and King had no obligation to inform him of something he already knew.

5           The cases relied upon by the General Counsel to prove this allegation all involved credited evidence which demonstrated a willful misrepresentation had occurred. See *Local 3036 Service Employees Intl. Union (Linden Maintenance)*, 280 NLRB 995, 996 (1986) (union never processed grievance, after representatives repeatedly told grievant that case was going to arbitration); *Retail Clerks Union Local 324 (Fed Mart Stores)*, 261 NLRB 1086, 1086 fn. 2 (1982) (union representatives informed grievant they would seek reinstatement and backpay as part of her grievance remedy, then told employer the union was not seeking employee's reinstatement and never sought backpay). These cases are inapposite, because King never misrepresented anything to Hanna.

15           Because King never misinformed Hanna about the status and settlement of his grievance, no violation of the Act occurred. *American Federation of Musicians*, 333 NLRB 1108, 1114–1115 (2001) (no violation where union representatives made no misleading statements and instead grievant had misconstrued their comments); cf. *American Postal Workers Union*, supra at 282 (1999) (union representatives' willfully misinformed employee about grievance by falsely stating grievance had been filed and processed at step 1).<sup>24</sup>

#### CONCLUSIONS OF LAW

1. The Respondent UAW Local 155 is a labor organization within the meaning of Section 2(5) of the Act.
- 25       2. SAS Automotive is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
3. The Respondent did not violate Section 8(b)(1)(A) in any of the manners alleged in the complaint.

30           On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>25</sup>

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<sup>24</sup> At the hearing, I rejected a number of exhibits offered by the Respondent involving irrelevant communications between representatives of the involved parties long after the complaint in this case issued. (Tr. 258–259.) Respondent Exhibits 8 and 21 also fell into this category, but were admitted into the record. I correct this inadvertent error and reject Respondent Exhibits 8 and 21 as well.

<sup>25</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

The complaint is dismissed.

Dated, Washington, D.C., March 30, 2020.

A handwritten signature in black ink, appearing to read "C. Muhl", written over a horizontal line.

Charles J. Muhl  
Administrative Law Judge